



UNIVERSITY OF  
**TORONTO**  
FACULTY OF LAW



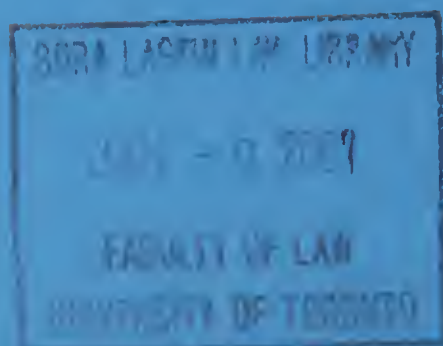
## **ABORIGINAL PEOPLES AND CANADIAN LAW**

### **Volume Two: Treaty Rights, Fiduciary Law & Federalism**

**Darlene Johnston  
Faculty of Law  
University of Toronto**

**Winter 2007**

**These materials are reproduced solely for the use of students in the Faculty of Law,  
University of Toronto.**



## **PART II. TREATY RIGHTS**

### **1. At Common Law**

R. v. Sikyea, [1964] 2 C.C.C. 325 (N.W.T.C.A.).....	1
R. v. Sikyea, (1964) S.C.R. 642 (S.C.C.) .....	11
Regina v. George, (1966) 55 D.L.R. (2d) 386 .....	14
Regina v. Taylor and Williams, (1982), 34 O.R. (2d) 360 .....	24
R. v. Simon [1985] 2 S.C.R. 387 .....	31
R. v. Horseman, [1990] 1 S.C.R. 901 .....	46
R. v. Sioui, [1990] 1 S.C.R. 1025.....	66

### **2. Constitutionalizing Treaties**

Regina v. Secretary of State [1982] Q.B. 892 (Eng.C.A.) .....	92
R. v. Côté [1996] 3 S.C.R. 139 .....	115
R. v. Badger, [1996] 1 S.C.R. 771 .....	117
R. v. Marshall [1999] 3 S.C.R. 456.....	141
R v. Marshall (re-hearing application), [1999] 3 S.C.R. 533.....	165
R. v. Marshall; R. v. Bernard, 2005 SCC 43 .....	182

## **PART III. FIDUCIARY LAW**

R. v. Guerin, [1984] 2 S.C.R. 345 .....	192
Blueberry River Indian Band v. Canada, [1995] 4 S.C.R. 344 .....	223
Osoyoos Band v. Oliver (Town), [2001] 2 S.C.R. 746 .....	251
Wewaykum Indian Band v. Canada <u>2002 SCC 79</u> .....	284
Haida Nation v. British Columbia (Minister of Forests), [2004] 3 S.C.R. 511.....	313
Taku River Tlingit First Nation v. British Columbia, [2004] 3 S.C.R. 550 .....	329

## **PART IV. FEDERALISM**

### **1. “Indians” and Section 91(24)**

Reference re: *British North America Act, 1867* (U.K.), s. 91 [1939] S.C.R. 104 .....339

R. v. Blais [2003] S.C.J. No.44 .....355

### **2. Section 91(24) and Section 88 of the *Indian Act***

Cardinal v. Attorney-General of Alberta,(1973) 40 D.L.R. (3d) 553 .....365

Natural Parents v. Superintendent of Child Welfare (1975) 60 D.L.R. (3d) 148 .....381

R. v. Kruger, [1978] 1 S.C.R. 104 .....401

Four B Mfg. Ltd. v. United Garment Workers of America, [1980] 1 S.C.R. 1031.....408

R. v. Dick, [1985] 2 S.C.R. 309 .....420

Derrickson v. Derrickson, [1986] 1 S.C.R. 285 .....432

### **3. Section 35 and Section 88 of the *Indian Act***

Delgamuukw v. British Columbia [1997] 3 S.C.R. 1010 (excerpt) .....444

Kitkatla Band v. British Columbia, [2000] B.C.J. No.86 (Prowse J.A. dissent) .....448

Kitkatla Band v. British Columbia, 2002 SCC 31.....459

Paul v. British Columbia (Forest Appeals Commission), [2003] S.C.J. No.34 .....471